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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,536	07/30/2002	Stephen Bardell	P/61996-PCT	4998
156	7590	08/06/2004	EXAMINER	
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C. 489 FIFTH AVENUE NEW YORK, NY 10017			TAKAOKA, DEAN O	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,536

Applicant(s)

BARDELL ET AL.

Examiner

Dean O Takaoka

Art Unit

2817

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15,17,20-23,26 and 28-30 is/are rejected.
- 7) ☒ Claim(s) 16,18,19,24,25,27,31 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The disclosure is objected to because of the following informalities: The specification recites reference number 14 as the "tuning door" (**page 6, line 2**). With respect to Fig. 5, reference number 14 is not shown. With respect to Fig. 6, reference number 13 is disclosed as the "tuning door" and reference number 13 is disclosed as the "mechanism" 14. The Examiner requests reference number 14 deleted on page 6, line 2 to avoid confusion.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 17, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck et al. (U.S. Patent No. 2,737,631) for reasons of record contained in the Office action dated October 30, 2003.

Claim 15:

Adds "the contact fingers being arranged to extend behind the support".

It is the position of the Examiner that the newly added limitation does not patentably distinguish over Beck et al. Beck et al. shows supports (12) encompassing the movable wall (13) where supports (12) reside in front and in back of fingers (14), thus the rejection is maintained.

Claims 17, 20 and 21:

Have not been amended and remain anticipated by Beck et al.

Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Brown (U.S. Patent No. 3,581,190) for reasons of record contained in the Office action dated October 30, 2003.

Claim 26:

Adds "and arranging the contact fingers to extend behind the support".

As discussed with respect to claim 15 above, Beck et al. shows supports (12) encompassing the movable wall (13) where supports (12) reside in front and in back of fingers (14), thus the rejection is maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. for reasons of record contained in the Office action dated October 30, 2003.

Claim 26:

Adds "and arranging the contact fingers to extend behind the support".

As discussed with respect to claims 15 and 26 above, Beck et al. shows supports (12) encompassing the movable wall (13) where supports (12) reside in front and in back of fingers (14), thus the rejection is maintained.

Claim 28:

Has not been amended and remain unpatentable over Beck et al.

Claims 22, 23, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. in view of (GB Patent No. 2,140,976), prior art supplied by the Applicant for reasons of record contained in the Office action dated October 30, 2003.

Claims 22, 23, 29, and 30:

As discussed with respect to claim 26 above, Beck et al. shows supports (12) encompassing the movable wall (13) where supports (12) reside in front and in back of fingers (14), where the claims have not been amended and remain unpatentable over Beck et al. thus the rejection is maintained.

Response to Arguments

Applicant's arguments filed May 4, 2004 have been fully considered but they are not persuasive.

Objections to the Specification:

Amendments to the Specification have not been included in the Amendment and the objections to the Specification are maintained.

Beck et al. and Brown:

The Applicant submits Beck et al. and Brown have fingers extending in front of the movable wall extending into the cavity which adversely affects the tuning while Applicant's fingers are behind the support resulting in greater accuracy of tuning. It does not appear the disclosure teaches relative merits of positioning the fingers on either side of the movable wall. With respect to an active surface, the movable wall of Beck et al. flexes during tuning thus is active. With respect to photo-etching, the Examiner agrees that Beck et al. nor Brown teach this feature and dependent claim 27 has been objected to.

The tuning door taught by Beck et al. and Brown both are capable of tuning. It is the position of the Examiner that Applicant's arguments with respect to the positing of the fingers with respect to the movable wall is not commensurate with that which is being claimed. It is the position of the Examiner that Beck et al. and Brown meet the newly added limitations to the amended claims (claims 15 and 26), thus the thus the rejection/s over Beck et al. and/or Brown is/are maintained.

UK Patent 2,140,967:

The Applicant submits the UK patent teaches the "plate faces the field-free space which are formed integrally with plate 3b" and that the spring blades are not formed integrally with the conductive plate being active during use. It is also submitted that there is no suggestion of manufacturing the blades that can be photo-etched. With respect to photo-etching, the Examiner has indicated objected to subject matter of dependent claim 27.

The UK patent is combined with Beck et al. in the rejection of claims 2, 23, 29, and 30. Beck et al. teaches the structure of the high frequency apparatus including the movable wall comprising spring blades and active conductive plate. The UK patent teaches supporting fingers made from silver plating which is a well-known metallization technique where Beck et al. teaches the strip made of beryllium copper but does not teach well-known metallizations such as silver plating and gold. It is the position of the Examiner that the UK patent is merely used to teach well-known alternative metallizations where Beck et al. is silent, where Beck et al. and/or Brown meet the newly added limitations to the amended claims (claims 15 and 26), thus the rejection/s is/are maintained.

Allowable Subject Matter

Claims 16, 18, 19, 24, 25, 27, 31, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean O Takaoka whose telephone number is (571) 272-1772. The examiner can normally be reached on 8:30a - 5:00p Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pascal can be reached on (571) 272-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dot
August 3, 2004



Robert Pascal
Examiner/Art Unit 2817